

**Supporting Statement for the
Report on Indebtedness of Executive Officers and Principal
Shareholders and their Related Interests to Correspondent
Banks (FFIEC 004; OMB No. 7100-0034)**

Summary

The Board of Governors of the Federal Reserve System proposes to extend for three years, without revision, the Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks (FFIEC 004, OMB No. 7100-0034).

The FFIEC 004 consolidates recordkeeping and disclosure requirements mandated by Title VIII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA) and Regulation O. FIRA requires that executive officers and principal shareholders of member banks submit to banks an annual report that provides information on the indebtedness of executive officers and principal shareholders and their related interests to the member banks's correspondent banks.¹

The Federal Reserve uses the FFIEC 004 to ascertain whether there is any indication of preferential lending to any executive officer or principal shareholder by a correspondent bank. Loans to executive officers and principal shareholders must be extended on "substantially the same terms...as those prevailing at the time for comparable transactions...with other persons."

In addition, state member banks have certain recordkeeping and disclosure requirements associated with the FFIEC 004. The current annual burden for the FFIEC 004 is estimated to be 5,551 hours. A copy of the current form and instructions is attached.

Background

The FFIEC 004 is the form adopted by the Federal Financial Institutions Examination Council (FFIEC) to meet the recordkeeping requirements under FIRA, as amended by Section 428 of the Garn-St Germain Depository Institutions Act of 1982 ("Garn Act"). The Garn Act did not affect the recordkeeping requirements and the FFIEC 004; however, it (and consequent regulatory changes) did affect the *use* of the FFIEC 004 by the extent to which bank insiders must go outside their own banks to satisfy their credit needs. Title IV of the Garn Act, which amended Sections 22(g) and 22(h) of the Federal Reserve Act, increased each national bank's lending limit to a single individual. This lending limit is also the aggregate lending limit for loans by a state member bank to its insiders.

1. FIRA also requires a quarterly report on extensions of credit by the reporting bank to its executive officers, principal shareholders, and their related interests. This requirement is met by the collection of such information in the Consolidated Reports of Condition and Income (FFIEC 031-041; OMB No. 7100-0036), Schedule RC-M, "Memoranda," filed quarterly by commercial banks.

Specifically, these changes were as follows:

- (1) Section 421(a) of the Garn Act eliminated the specific dollar limitation on home mortgage and educational loans.
- (2) Section 421(b) of the Garn Act eliminated the dollar limitation for "other" loans and now provides that a member bank's appropriate federal regulatory agency shall prescribe a limit for all such loans. For this purpose the Board of Governors of the Federal Reserve established an amount that is the higher of 2.5 percent of capital and unimpaired surplus or \$25,000, but in no event to exceed \$100,000.
- (3) Section 22(h)(1) of the Federal Reserve Act provides that no member bank shall make any loan to any of its executive officers, principal shareholders, or to any related interest of such person in an amount that, when aggregated with all other loans made to such person or to any related interest of such person, exceeds the limit in Section 5200 of the Revised Statutes (12 U.S.C. Section 84) on loans to a single borrower by national banks. Section 401 of the Garn Act increased the limit in Section 5200 of the Revised Statutes, and the rule amends the definition of "lending limit" in Regulation O accordingly. In states where applicable state laws have established lending limits that are lower than the limits in Section 5200 of the Revised Statutes, state member banks are required to comply with the lower state lending limits.
- (4) Section 422 of the Garn Act eliminated the specific dollar amount in Section 22(h)(2) of the Federal Reserve Act and now provides that the bank's appropriate federal regulatory agency shall prescribe the amount above which the prior approval of the bank's board of directors is required. The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) have adopted a uniform regulation for all insured banks concerning the amount above which all loans to insiders must receive the prior approval of the bank's board of directors. For this purpose the amendment establishes an amount which is the higher of 5 percent of capital or \$25,000, not to exceed \$500,000. This amendment establishes a lower limit of \$25,000 for banks having approximate total assets of \$7 million or less and an upper limit of \$500,000 for all banks having approximate total assets exceeding \$140 million. For all other banks, the amount is 5 percent of capital.

The amendments were designed to enable member banks to service the legitimate credit needs of their executive officers as economic conditions change. Each of the amendments affected the conditions under which an executive officer or principal shareholder would be required to submit information collected on the FFIEC 004. In addition, certain recordkeeping and disclosure requirements under Regulation O (formerly OMB No. 7100-0193, which was eliminated) were added to the requirements of the FFIEC 004 in July 1988. These requirements are discussed under "Description of Information Collection" below.

Description of Information Collection

The FFIEC 004 is mostly administrative in nature and includes information on the maximum amount of indebtedness during the calendar year, the status of the person providing the information, and the terms and conditions of each extension of credit. This information must be provided by "each executive officer and each principal shareholder of an insured bank who was indebted, or whose related interests were indebted, during the calendar year for which the information is being submitted to a correspondent bank of their bank."

For the Federal Reserve, the respondent universe consists of all principal shareholders and executive officers of state member banks. Each must file information on the indebtedness of the officer or shareholder to each correspondent bank as well as separate information on the indebtedness of each of the related interests of the officer or shareholder to each correspondent bank. This information is not filed with the Federal Reserve. It is filed with the board of directors of the officer or shareholder's bank.

In addition, executive officers of member banks are required notify the bank's board of directors within ten days if they become indebted to any other bank or banks above a specified aggregate amount.

State member banks are required (1) to furnish annually a list of their correspondent banks to their executive officers and principal shareholders, (2) to keep records of the extensions of credit reported by executive officers and principal shareholders for three years; that is, retain the FFIEC 004 form on file subject to examiner review, (3) to make available, in response to a written request from the public, the names of each of its executive officers and principal shareholders to whom, or to whose related interests, a correspondent bank of the member bank had an extension of credit in excess of the specified regulatory minimum levels, as of the end of the previous quarter, and (4) to keep records for two years of all such requests from the public and their disposition.

Since the information is mandatory, the FFIEC expects a response rate of 100 percent. The appropriate federal supervisory agency deals with noncompliance on an individual basis, bank by bank.

Time Schedule for Information Collection

The information contained in the FFIEC 004 report is collected annually as of December 31 and must be completed by the following January 31. The information is retained at the institution for three years, where it is made available to the Federal Reserve during the examination process. As mentioned above, state member banks have recordkeeping and disclosure requirements associated with the FFIEC 004 annually and on occasion.

Legal Status

The Board's Legal Division has determined that 12 U.S.C. §§ 375(a)(6) and (10), 375(b)(10), and 1972(2)(G) authorize the recordkeeping and disclosure requirements. The Board's Legal Division has determined that the individual respondent's financial information is confidential [5 U.S.C. §§ 552(b)(4) and (6)]. However, upon request from the public the member bank is required to disclose the name of each executive officer and principal shareholder who, together with related interests, has loans from the bank or its correspondent banks equal to a minimum of 5 percent of the member bank's capital and surplus, or \$500,000, whichever is less.

Consultation Outside the Agency

On September 18, 2001, the FDIC, the OCC, and the Federal Reserve Board (the agencies) jointly published a notice soliciting comments for 60 days the currently approved Report of Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks (FFIEC 004).

Estimate of Respondent Burden

The total number of respondents is 4,955: 3,964 executive officers and principal shareholders fulfilling recordkeeping burden and 991 state member banks fulfilling recordkeeping and disclosure burden. The annual recordkeeping and disclosure burden attributed to the FFIEC 004 information collection is estimated to be 5,551 hours, as shown in the following table.

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated response time</i>	<i>Estimated annual burden hours</i>
Officers/principal shareholders:				
• Annual report	3,964 ²	1	1.00	3,964
• Report of loans above limit	3,964	1	.15	595
State member banks:				
• Furnishing list of banks	991	1	.50	496
• Other recordkeeping	991	1	.25	248
• Disclosure	991	1	.25	<u>248</u>
<i>Total</i>				5,551

2. Estimated average of four respondents (executive officers and principal shareholders) annually for each of the 991 state member banks.

Based on an average cost of \$45 per hour, the total cost to the public is estimated to be \$249,795.

Sensitive Questions

There are no questions of a sensitive nature as defined by OMB guidelines.

Costs to the Federal Reserve System

Because the information contained in the FFIEC 004 reporting form is kept on file at the member bank, the Federal Reserve System does not incur any costs for transmitting or processing the data. The only costs are for printing and mailing, which are minimal.